

IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF UTAH

OL PRIVATE COUNSEL, LLC, a)
Utah limited liability) Videotaped
company,) Deposition of:
)
) PATRICIA KUENDIG
Plaintiff,)
)
vs.)
) Case No.
EPHRAIM OLSON, an) 2:21-cv-00455-DDB-DAO
individual,)
) Judge David Barlow
)
Defendants.) Magistrate Judge
Daphne A. Oberg

November 29, 2023

9:13 a.m. - 5:22 p.m.

FOLEY & LARDNER
95 South State Street, Suite 2500
Salt Lake City, Utah 84111

Reporter: Tamra J. Berry, CSR, RPR
Videographer: Alyse Largin

<p>1 MS. PORTER: I'm going to object. I think 11:50:16</p> <p>2 that calls for mental impressions of counsel and 11:50:18</p> <p>3 protected. I'm going to instruct her not to answer. 11:50:21</p> <p>4 Q. (BY MR. MORTENSEN) Well, let me ask it -- 11:50:24</p> <p>5 let me try a different way then. Is there any reason 11:50:27</p> <p>6 why you didn't identify -- well, let me ask it this 11:50:29</p> <p>7 way: Were these the only entities that you were 11:50:32</p> <p>8 aware of when you signed -- when you filed the 11:50:35</p> <p>9 counter petition? 11:50:37</p> <p>10 A. The only entities I was aware of? 11:50:38</p> <p>11 Q. The only trusts or other entities that 11:50:42</p> <p>12 were related to the Olson family in any way? 11:50:44</p> <p>13 A. No. 11:50:51</p> <p>14 Q. You were aware of other ones? 11:50:52</p> <p>15 A. Yeah, there's others listed in here, but 11:50:53</p> <p>16 they're not parties. 11:50:56</p> <p>17 Q. And is there a reason why those other ones 11:50:57</p> <p>18 aren't parties? 11:51:04</p> <p>19 MS. PORTER: I'm going to object. Calls 11:51:05</p> <p>20 for the mental impressions of counsel and instruct 11:51:06</p> <p>21 her not to answer. 11:51:09</p> <p>22 Q. (BY MR. MORTENSEN) Do you recall what, if 11:51:13</p> <p>23 anything, you were told about these trusts that 11:51:20</p> <p>24 you've identified as third party -- as the third 11:51:22</p> <p>25 party defendants? 11:51:25</p> <p style="text-align: right;">Page 106</p>	<p>1 and over again I've got to do my due diligence. I 11:52:28</p> <p>2 was trying to get information. And so, you know, I'd 11:52:32</p> <p>3 ask him questions, he'd get back to me with 11:52:33</p> <p>4 information. But specifics, I don't remember. 11:52:36</p> <p>5 Q. Do you recall any of the specific 11:52:40</p> <p>6 information that Mr. Hanks provided you during those 11:52:43</p> <p>7 settlement discussions? 11:52:46</p> <p>8 A. Specifics, I don't remember off the top of 11:52:47</p> <p>9 my head, no. 11:52:51</p> <p>10 Q. Were you told what the purpose of any of 11:52:57</p> <p>11 these -- the trusts that are identified as third 11:52:59</p> <p>12 party defendants, were you told what the purpose of 11:53:03</p> <p>13 any of those trusts was? 11:53:05</p> <p>14 A. By whom? 11:53:06</p> <p>15 Q. Anyone other -- well, let's start with a 11:53:07</p> <p>16 yes-no, on the -- on the anyone, and then we'll carve 11:53:08</p> <p>17 out any client's communications. So did anyone tell 11:53:11</p> <p>18 you what the purpose of the trust was? 11:53:15</p> <p>19 MS. PORTER: I'm sorry, I'm going to 11:53:17</p> <p>20 object. When you combine that question with the next 11:53:19</p> <p>21 question, it does circumvent the privilege. Can you 11:53:21</p> <p>22 exclude Carolyn so that there's not an inherent 11:53:28</p> <p>23 disclosure in the following question. 11:53:30</p> <p>24 MR. MORTENSEN: I mean, I just disagree 11:53:32</p> <p>25 with your premise that -- that whether she had a 11:53:33</p> <p style="text-align: right;">Page 108</p>
<p>1 MS. PORTER: I'm going to object only to 11:51:26</p> <p>2 the extent that the question includes -- 11:51:27</p> <p>3 MR. MORTENSEN: I'm not looking -- I'm not 11:51:31</p> <p>4 looking for any discussion with Ms. Carolyn Olson. 11:51:32</p> <p>5 So let's set that aside. 11:51:34</p> <p>6 Q. (BY MR. MORTENSEN) Other than what you 11:51:36</p> <p>7 may have been told by Carolyn Olson, were you told 11:51:37</p> <p>8 anything else about these entities that you've 11:51:40</p> <p>9 identified as third party defendants? 11:51:42</p> <p>10 A. Told anything like verbally from another 11:51:44</p> <p>11 individual? 11:51:47</p> <p>12 Q. Yes. 11:51:48</p> <p>13 A. I mean, in terms of the word "anything," 11:51:50</p> <p>14 that's pretty broad. Before I filed this I had 11:51:53</p> <p>15 conversations with Jim Hanks, for example. So I 11:51:56</p> <p>16 guess my answer is yes, I did have information from 11:51:59</p> <p>17 others. 11:52:02</p> <p>18 Q. And you say you had conversation with Jim 11:52:03</p> <p>19 Hanks before you filed this. What do you recall 11:52:07</p> <p>20 discussing with Jim Hanks prior to filing the counter 11:52:11</p> <p>21 petition? 11:52:14</p> <p>22 A. I mean, we had many discussions. So I 11:52:15</p> <p>23 can't -- I don't remember exactly. But, I mean, it 11:52:18</p> <p>24 was all geared towards settlement and, you know, me 11:52:20</p> <p>25 trying to figure out -- I remember telling him over 11:52:24</p> <p style="text-align: right;">Page 107</p>	<p>1 discussion with someone is about -- whether someone 11:53:36</p> <p>2 told her about the purpose of the trust is 11:53:39</p> <p>3 privileged. 11:53:41</p> <p>4 MS. PORTER: Well, I mean, let me -- can I 11:53:42</p> <p>5 just give you a hypothetical. Suppose I said to you: 11:53:43</p> <p>6 Did anyone tell you who murdered, you know, Jim 11:53:45</p> <p>7 Smith? Yes. Okay. Who told you? It's privileged. 11:53:48</p> <p>8 I mean, you've just disclosed who told you -- do you 11:53:51</p> <p>9 see what I mean? It's a tie-in of the two 11:53:54</p> <p>10 questions -- 11:53:56</p> <p>11 MR. MORTENSEN: I understand your point. 11:53:57</p> <p>12 But I'm not -- I didn't ask what the purpose of the 11:53:58</p> <p>13 trust was. My question was far broader. What -- did 11:54:01</p> <p>14 anyone tell you what the purpose was? 11:54:03</p> <p>15 MS. PORTER: The thing is, though, the 11:54:05</p> <p>16 purpose is a little narrower. If it was about the 11:54:06</p> <p>17 trust, I'm not sure that I would be making this 11:54:09</p> <p>18 objection just if it was about the trust. But the 11:54:11</p> <p>19 purpose seems to narrow the question. 11:54:12</p> <p>20 Q. (BY MR. MORTENSEN) All right. In an 11:54:14</p> <p>21 attempt to try to resolve this concern, I'm going to 11:54:15</p> <p>22 carve out Carolyn Olson for now. I am reserving the 11:54:18</p> <p>23 right to readdress this issue when we're going to be 11:54:21</p> <p>24 talking about this later. 11:54:24</p> <p>25 But for purposes of now, exclude 11:54:25</p> <p style="text-align: right;">Page 109</p>

1 conversations, did anyone tell you about the purpose 11:54:30	1 Q. When you say you don't recall whether 11:57:40
2 of the trust other than Carolyn Olson? 11:54:32	2 you've learned anything, setting aside whether you 11:57:47
3 A. Not that I recall. 11:54:34	3 learned it from him -- 11:57:50
4 Q. Did you have any discussions with anyone 11:54:35	4 A. Uh-huh. 11:57:50
5 other than Carolyn Olson about what the assets of the 11:54:39	5 Q. -- have you had discussions with him about 11:57:50
6 trusts were? 11:54:42	6 the assets? 11:57:53
7 A. When? 11:54:43	7 A. I just don't remember is what I was trying 11:57:53
8 Q. At any point ever. 11:54:44	8 to say. 11:57:55
9 A. Yes. 11:54:46	9 Q. At this point when you filed the counter 11:57:56
10 Q. And when? 11:54:49	10 petition, did you have a copy of any of the trust 11:58:02
11 A. I mean, what comes to my mind is I 11:54:51	11 documents for any of the trusts identified as third 11:58:06
12 remember asking Jim Hanks a lot of questions. I was 11:54:54	12 party defendants? 11:58:11
13 trying to do my due diligence. 11:54:56	13 A. I don't remember. 11:58:12
14 Q. Okay. 11:55:00	14 Q. At this point when you filed the counter 11:58:14
15 A. But, I mean, I can't give you specifics of 11:55:00	15 petition, did you have any of the formation documents 11:58:20
16 which ones I asked about or what I asked or -- but, I 11:55:03	16 for any of the entities identified as third party 11:58:26
17 mean, I remember having questions. 11:55:07	17 defendants? 11:58:30
18 Q. Okay. Anyone other than Jim Hanks? 11:55:13	18 A. Formation documents, like the actual trust 11:58:31
19 A. Yeah, I believe that there may have 11:55:16	19 document, is that what you're saying? 11:58:39
20 been -- may have -- I'm trying to remember. I know 11:55:31	20 Q. The trust document or the articles of 11:58:40
21 at some point I learned about the specific like 11:55:50	21 incorporation or -- for the LLCs, the membership 11:58:43
22 parcels of land. And I know -- but I can't remember 11:55:55	22 agreements. 11:58:47
23 how I got that information. And I'm talking about 11:56:02	23 A. So I can say that if it's a Utah entity, I 11:58:47
24 the Waterton Trust. But I'm guessing. I just don't 11:56:07	24 would have pulled whatever was on the State of Utah 11:58:52
25 remember specifics. 11:56:15	25 Department of Corporations before I filed this. I 11:58:56
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1 Q. Okay. Do you have a general memory as to 11:56:17	1 don't have a specific recollection of that, but 11:59:00
2 how, other than your conversation with Mr. Hanks, you 11:56:21	2 that's my practice. 11:59:02
3 may have learned about any of the assets of any of 11:56:24	3 As for the trusts, I don't remember 11:59:05
4 the entities identified as third party defendants in 11:56:27	4 specifically. I believe I did, but I don't -- that's 11:59:08
5 the counter petition? 11:56:30	5 a guess. 11:59:15
6 A. I mean, I know I've learned information, 11:56:31	6 Q. So I want to make sure. You believe you 11:59:23
7 but I can't tell you how or when off the top of my 11:56:46	7 had copies of the trusts, but you don't recall for 11:59:26
8 head. 11:56:51	8 sure? 11:59:28
9 Q. When you say you know you've learned 11:56:52	9 A. Right. 11:59:29
10 information? 11:56:55	10 MR. MORTENSEN: Okay. I'm about ready to 11:59:32
11 A. Well, like, for instance, there's been 11:56:56	11 launch into a new area, so I think it's best to take 11:59:33
12 discovery in the divorce case. And there's been -- I 11:56:57	12 a break. Let's take our lunch break now. Let's go 11:59:36
13 mean, there's -- yeah, I just can't -- I can't 11:57:02	13 off the record. 11:59:39
14 pinpoint what I learned or when I've learned it or 11:57:07	14 VIDEOGRAPHER: Off the record at 11:59. 11:59:39
15 how I've learned it just sitting here. 11:57:11	15 (Break taken from 11:59 to 12:39.) 11:59:41
16 Q. Did you have discussions with Ephraim 11:57:18	16 (EXHIBIT NUMBER 8 WAS MARKED.) 12:40:13
17 Olson about the assets of the various entities 11:57:22	17 VIDEOGRAPHER: This is the beginning of 12:40:21
18 identified as counter -- the third party defendants 11:57:24	18 media 3. We're back on the record. The time is 12:40:23
19 in the counter petition? 11:57:26	19 12:39. 12:40:26
20 A. I don't recall specifically, no. 11:57:27	20 Q. (BY MR. MORTENSEN) Ms. Kuendig, I'm going 12:40:27
21 Q. You don't recall whether you had 11:57:29	21 to show you what is being marked as Exhibit 8. It is 12:40:29
22 conversations with Ephraim Olson about the assets of 11:57:33	22 a document that you produced in response to the 12:40:32
23 those entities? 11:57:36	23 subpoena that was served on Dodd & Kuendig. And you 12:40:36
24 A. I don't recall, no. I don't recall if I 11:57:37	24 can see it's an assessment after normal reassessment 12:40:44
25 learned anything. 11:57:39	25 period recommendation report. Do you see that 12:40:48
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1 document? 12:40:51	1 A. Let me make sure I'm clear. The only 12:43:30
2 A. I see it. 12:40:51	2 person that has given me information about the 12:43:33
3 Q. And I will represent to you this is one of 12:40:51	3 origin, yes, is my client. 12:43:37
4 the documents that you produced to us in response to 12:40:54	4 Q. Okay. Have you discussed the boxes of 12:43:39
5 the subpoena. Have you seen this document before? 12:40:57	5 documents with anyone other than Carolyn Olson? 12:43:41
6 A. Yes. 12:40:59	6 A. Yes. 12:43:45
7 Q. When did you first see it? 12:41:01	7 Q. Who? 12:43:45
8 A. I don't remember exactly. 12:41:02	8 A. Gosh, lots of people. Mark Hindley, 12:43:46
9 Q. Do you have a year or a month or anything? 12:41:08	9 Monica Call, Sarah Vaughn. And I can't remember 12:43:52
10 A. I don't. I know I produced it in 12:41:11	10 Chase's last name, but Chase -- he represents Ruth 12:43:59
11 discovery in the divorce case, so it would have been 12:41:15	11 Doxey Trust. I'm blanking on his last name. I 12:44:05
12 before then. 12:41:18	12 cannot think of it, so we're just going to say Chase. 12:44:17
13 Q. How did you get the document? 12:41:19	13 Other counsel. 12:44:23
14 A. This was in a box of documents delivered 12:41:32	14 Q. And what did -- what did you discuss about 12:44:27
15 to my office, or boxes, sorry. 12:41:45	15 the box of documents with Sarah Vaughn? 12:44:33
16 Q. When were the boxes of documents delivered 12:41:53	16 A. So we -- at Mark Hindley's request, we put 12:44:40
17 to you? 12:42:00	17 the documents at Salt Lake Legal, and then there's 12:44:50
18 A. I don't remember. 12:42:00	18 multiple e-mails with all of us because we agreed 12:44:56
19 Q. I take it before you produced it, any of 12:42:01	19 that all of us would be involved, and like we talked 12:45:00
20 it? 12:42:04	20 about like do we get them inventoried, how do we get 12:45:04
21 A. Absolutely. 12:42:04	21 them inventoried, what do we need more information 12:45:08
22 Q. So before you did the discovery in the 12:42:05	22 on, who do they belong to? And there's been a lot of 12:45:11
23 divorce case you got those boxes of documents? 12:42:09	23 group communications and we went there in person. I 12:45:15
24 A. Yes. 12:42:11	24 think Sarah was there, I think so. I mean, I can't 12:45:21
25 Q. And who delivered the box of -- the boxes 12:42:12	25 remember exactly. But this was a -- that box has 12:45:24
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1 of documents to you? 12:42:16	1 been a source of discussion and sort of group 12:45:27
2 A. My client. 12:42:17	2 consciousness. 12:45:31
3 Q. Carolyn Olson? 12:42:18	3 Q. And in any of those discussions was there 12:45:34
4 A. Yes. 12:42:20	4 any discussion about the source of those boxes of 12:45:36
5 Q. And did she deliver them personally? 12:42:21	5 documents? 12:45:39
6 A. Yes. 12:42:26	6 A. Not that I recall, more -- it was more 12:45:39
7 Q. What is your understanding of what the 12:42:27	7 about ownership. 12:45:46
8 documents in the boxes of documents was? Excuse me, 12:42:40	8 Q. And do you have a copy of the documents 12:45:47
9 let me try that again. 12:42:44	9 that are in the boxes of documents? 12:45:52
10 The boxes of documents, what's your 12:42:45	10 A. No. The only thing that I've retained was 12:45:55
11 understanding of where they came from? 12:42:48	11 what was produced in discovery in the divorce case. 12:45:59
12 MS. PORTER: I'm going to object only to 12:42:51	12 Mark Hindley asked me not to keep anything with that 12:46:03
13 the extent that any understanding might have derived 12:42:53	13 exception. 12:46:13
14 from communications with her client. You can answer 12:42:56	14 Q. Did you review the documents in the boxes 12:46:14
15 it excluding any communications with your client. 12:43:04	15 of documents before they were delivered to Salt Lake 12:46:34
16 THE WITNESS: Then I can't answer it. 12:43:07	16 Legal? 12:46:39
17 Q. (BY MR. MORTENSEN) Is it -- is it your 12:43:10	17 A. Not all but some. 12:46:39
18 testimony that the only person you've discussed those 12:43:11	18 Q. How did you pick what to review and what 12:46:41
19 boxes of documents with is Carolyn Olson? 12:43:14	19 not to review? 12:46:48
20 A. You asked me about the origin of the 12:43:17	20 A. I don't know that I can answer that. 12:46:49
21 documents, and the answer is yes. 12:43:19	21 MS. PORTER: I was just thinking that. I 12:46:55
22 Q. Okay. So with respect to the origin of 12:43:22	22 do think that is intruding into mental impressions. 12:46:57
23 the documents, the only person you've discussed the 12:43:24	23 Q. (BY MR. MORTENSEN) What portion of the 12:47:03
24 boxes of documents with is Carolyn; is that what 12:43:27	24 documents did you review? 12:47:04
25 you're saying? 12:43:29	25 A. I -- 12:47:05
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30 (Pages 114 - 117)

1 MS. PORTER: That's going to be work 12:47:09	1 make sure I -- 12:50:00
2 product. 12:47:10	2 Q. Please, take whatever time you need. 12:50:02
3 MR. MORTENSEN: No way that's true. 12:47:12	3 A. So I think this is the document that I 12:50:25
4 Q. (BY MR. MORTENSEN) Okay. Is there any 12:47:13	4 produced with regards to number 3 on your subpoena 12:50:27
5 records that would show what of the box of documents 12:47:23	5 duces tecum. And there's an e-mail showing this was 12:50:31
6 you reviewed and which ones you didn't? 12:47:26	6 sent to Dentons in Canada. And like I said, this was 12:50:35
7 A. Not that comes to mind. 12:47:30	7 produced in the divorce case, so divorce counsel, 12:50:42
8 Q. Did anyone review the documents in the 12:47:32	8 various divorce counsel would also have it. 12:50:45
9 boxes of documents other than you that you're aware 12:47:35	9 Q. Okay. So setting aside those people 12:50:47
10 of? 12:47:37	10 you've now told me, and I'm probably going to keep 12:50:54
11 A. I believe your office has a copy of them. 12:47:39	11 asking this question until you've given me the 12:50:57
12 And we all when we went there looked in the boxes. 12:47:49	12 exhaustive list that you're aware of -- 12:50:59
13 But no, not that I can -- not that I know of or I can 12:48:00	13 A. Uh-huh. 12:50:59
14 remember other than that. 12:48:04	14 Q. -- are you aware of anyone else reviewing 12:51:00
15 Q. Okay. So other than whatever portion you 12:48:07	15 any of the documents in the boxes of documents? 12:51:02
16 reviewed and then whatever portion counsel in this 12:48:13	16 A. Other than the answers I've given you, I 12:51:05
17 room may have reviewed after getting them from Salt 12:48:18	17 don't remember. 12:51:07
18 Lake Legal -- 12:48:22	18 Q. Okay. Are you aware of whether Ephraim 12:51:07
19 A. Well, not everybody's in the room. 12:48:22	19 Olson reviewed the documents in the boxes of 12:51:15
20 Q. Okay. Other than Mark Hindley and anyone 12:48:26	20 documents? 12:51:17
21 associated with Stoel Rives and now Foley & Lardner, 12:48:32	21 A. I don't know. 12:51:17
22 anyone at Ms. Vaughn's law firm or yourself, are you 12:48:38	22 MS. VAUGHN: Foundation. 12:51:18
23 aware of anyone else reviewing the docs -- the 12:48:41	23 THE WITNESS: I don't know if he was -- I 12:51:19
24 documents in the boxes of documents? 12:48:44	24 don't think he was at that meeting, but no, I don't 12:51:20
25 A. From the time I had them forward? 12:48:46	25 know. 12:51:22
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1 Q. At any point ever? 12:48:47	1 Q. (BY MR. MORTENSEN) So after you received 12:51:22
2 A. Well, I'm not aware of anything before I 12:48:48	2 the boxes of documents from Ms. Carolyn Olson and 12:51:35
3 had them. So I would say -- remember I mentioned 12:48:51	3 before you gave them to Salt Lake Legal, did you do 12:51:40
4 Chase earlier, but I can't remember his last name. 12:48:59	4 anything with the documents? 12:51:43
5 He was present at that meeting. And then I don't -- 12:49:02	5 A. I've already told you I reviewed some of 12:51:44
6 we know Salt Lake Legal had to have because they did 12:49:05	6 them. 12:51:49
7 an inventory. 12:49:08	7 Q. Other than the ones that you reviewed -- 12:51:50
8 Q. Okay. Other than those individuals? So 12:49:09	8 well, did you use any of the documents that you 12:51:58
9 we've now excluded Ms. Vaughn's firm, the individuals 12:49:13	9 reviewed in connection with any of the legal services 12:52:01
10 at Stoel Rives and at Foley, we've excluded Chase, 12:49:16	10 you provided? 12:52:04
11 whatever his last name is, and Salt Lake Legal and 12:49:20	11 A. Whatever I've produced in discovery only, 12:52:05
12 yourself. 12:49:24	12 that I can think of. I know this was one of them. I 12:52:12
13 A. Uh-huh. 12:49:25	13 just don't -- I haven't looked back at the discovery 12:52:18
14 Q. Other than that, are you aware of anyone 12:49:25	14 in a while. 12:52:19
15 else reviewing any of the documents that were in the 12:49:28	15 Q. How long did you spend reviewing documents 12:52:20
16 boxes of documents? 12:49:30	16 in the boxes of documents? 12:52:22
17 A. Sorry, I don't remember who else, if 12:49:31	17 A. Oh, I don't know. 12:52:23
18 anybody, was at that meeting. So I would just say I 12:49:35	18 Q. Did you -- other than providing the 12:52:24
19 don't know. And then obviously this doc -- I think 12:49:39	19 documents to Salt Lake Legal, did you provide any of 12:52:33
20 this is the document -- this was produced with 12:49:44	20 the documents in the boxes of documents to anyone 12:52:38
21 regards to number 3 request on the subpoena; is that 12:49:46	21 else? 12:52:41
22 right? 12:49:49	22 A. I already told you I -- this document was 12:52:41
23 Q. I don't remember which specific request 12:49:50	23 e-mailed to Dentons. 12:52:43
24 you were produced it in response to, but -- but... 12:49:53	24 Q. Okay. So Exhibit 8 you sent to Dentons? 12:52:45
25 A. Okay. Let me -- let me just review it to 12:49:58	25 A. Yeah, this was in that subpoena duces 12:52:51
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<p>1 tecum three response, there was an e-mail. 12:52:55</p> <p>2 MR. MORTENSEN: Let's go off the record. 12:53:02</p> <p>3 VIDEOGRAPHER: Going off the record at 12:53:02</p> <p>4 12:52.) 12:53:08</p> <p>5 (Break taken from 12:52 to 12:52.) 12:53:15</p> <p>6 VIDEOGRAPHER: Back on the record, 12:52. 12:53:17</p> <p>7 Q. (BY MR. MORTENSEN) Okay. Other than that 12:53:22</p> <p>8 e-mail that you sent when you sent this document to 12:53:23</p> <p>9 Dentons, anyone else that you've sent any of the 12:53:27</p> <p>10 documents from the box of documents to? 12:53:29</p> <p>11 A. I don't recall. 12:53:32</p> <p>12 Q. Why were you sending the document to 12:53:39</p> <p>13 Dentons, Exhibit 8? 12:53:42</p> <p>14 MS. PORTER: I think that intrudes into 12:53:43</p> <p>15 mental impressions. I'm going to instruct her not to 12:53:45</p> <p>16 answer. 12:53:48</p> <p>17 Q. (BY MR. MORTENSEN) You mentioned that 12:53:56</p> <p>18 there were disks in the boxes of documents. Did you 12:54:00</p> <p>19 review any of the documents on the disks? 12:54:03</p> <p>20 A. I mentioned -- I didn't mention that. 12:54:05</p> <p>21 Q. Are you aware were there any disks in the 12:54:10</p> <p>22 boxes of documents? 12:54:12</p> <p>23 A. I know I can recall one. I don't know if 12:54:13</p> <p>24 there were multiple. 12:54:15</p> <p>25 Q. And did you review any of the documents on 12:54:16</p> <p style="text-align: right;">Page 122</p>	<p>1 mental impressions. I'm going to instruct her not to 12:55:24</p> <p>2 answer. 12:55:26</p> <p>3 Q. (BY MR. MORTENSEN) When did you send it 12:55:28</p> <p>4 to Dentons? 12:55:28</p> <p>5 A. I'd have to see the e-mail. I don't know. 12:55:29</p> <p>6 Q. Do you have a memory of -- even of the 12:55:31</p> <p>7 timing at all? 12:55:35</p> <p>8 A. I don't. 12:55:35</p> <p>9 Q. Did you discuss this document with anyone 12:55:36</p> <p>10 other than Carolyn Olson? 12:55:48</p> <p>11 A. With Dentons. 12:55:55</p> <p>12 Q. Okay. So Exhibit 8, other than with 12:55:59</p> <p>13 Dentons or with Carolyn Olson, did you discuss it 12:56:03</p> <p>14 with anyone else? 12:56:06</p> <p>15 A. No. Not that I recall. 12:56:06</p> <p>16 Q. When you received this document, were you 12:56:08</p> <p>17 aware that the findings in the document had been 12:56:17</p> <p>18 reversed? 12:56:20</p> <p>19 A. I'm not aware of that. 12:56:21</p> <p>20 Q. You're not aware of that even as of today? 12:56:25</p> <p>21 A. Yes. 12:56:32</p> <p>22 Q. Did you have any idea where the document 12:56:32</p> <p>23 came from other than with respect to the box of 12:56:39</p> <p>24 documents? 12:56:43</p> <p>25 A. I can't answer that without going into 12:56:44</p> <p style="text-align: right;">Page 124</p>
<p>1 the one you remember? 12:54:18</p> <p>2 A. I don't recall reviewing them. I recall 12:54:19</p> <p>3 reviewing the file names. 12:54:22</p> <p>4 Q. I see. So you opened the disk, looked at 12:54:27</p> <p>5 the file names, but don't recall actually looking at 12:54:31</p> <p>6 the documents; is that what you're saying? 12:54:34</p> <p>7 A. Yeah, I don't recall. 12:54:36</p> <p>8 Q. Okay. Let's turn back to Exhibit 8. When 12:54:37</p> <p>9 you got -- when you reviewed this document -- well, 12:54:47</p> <p>10 let me change the question. You did review this 12:54:56</p> <p>11 document, I take it, Exhibit 8? 12:54:58</p> <p>12 A. Yeah. 12:55:01</p> <p>13 Q. And you provided a copy of this to 12:55:02</p> <p>14 Dentons? 12:55:05</p> <p>15 A. Yes. 12:55:06</p> <p>16 Q. For use in connection with the Mareva 12:55:07</p> <p>17 injunction? 12:55:11</p> <p>18 A. I didn't say that. 12:55:12</p> <p>19 Q. Was that true or not? 12:55:12</p> <p>20 MS. PORTER: Let me have the question. 12:55:14</p> <p>21 You're asking her why she sent it? 12:55:15</p> <p>22 Q. (BY MR. MORTENSEN) Did you send it to 12:55:16</p> <p>23 Dentons for use in connection with the Mareva 12:55:18</p> <p>24 injunction? 12:55:22</p> <p>25 MS. PORTER: I think that intrudes into 12:55:22</p> <p style="text-align: right;">Page 123</p>	<p>1 what my client shared. 12:56:50</p> <p>2 Q. So the only -- your only understanding of 12:56:52</p> <p>3 where this document came from is based on what your 12:56:56</p> <p>4 client told you? 12:56:59</p> <p>5 A. Yes. 12:57:00</p> <p>6 Q. Did you have an understanding this was a 12:57:06</p> <p>7 confidential document? 12:57:07</p> <p>8 MS. VAUGHN: Assumes facts not in 12:57:14</p> <p>9 evidence. 12:57:15</p> <p>10 MS. PORTER: I'm going to again object to 12:57:18</p> <p>11 any understanding to the extent that it derives from 12:57:21</p> <p>12 communication with your client. But apart from that, 12:57:25</p> <p>13 please answer. 12:57:31</p> <p>14 THE WITNESS: Could we take a short break? 12:57:32</p> <p>15 I have a question on the objection. 12:57:35</p> <p>16 MS. PORTER: Okay. Since it's for the 12:57:38</p> <p>17 purpose of assessing privilege, I think we are 12:57:40</p> <p>18 entitled to do that. 12:57:42</p> <p>19 MR. MORTENSEN: We'll take a break. 12:57:43</p> <p>20 VIDEOGRAPHER: Off the record, 12:57. 12:57:44</p> <p>21 (Break taken from 12:57 to 1:01 p.m.) 12:57:47</p> <p>22 VIDEOGRAPHER: Back on the record at 1:01. 13:01:40</p> <p>23 MS. PORTER: Could we have the last 13:01:43</p> <p>24 question back, please. 13:01:44</p> <p>25 THE REPORTER: "Did you have an 13:01:45</p> <p style="text-align: right;">Page 125</p>

1 understanding this was a confidential document?" 12:57:06	1 this is confidential is based on a communication with 13:04:07
2 MR. MORTENSEN: It should be that this was 13:01:57	2 her client and with communication with Dentons. I'm 13:04:10
3 a confidential document. But anyway. 13:01:59	3 entitled to know when those communications occurred. 13:04:13
4 Q. (BY MR. MORTENSEN) Let's go ahead. I'll 13:01:59	4 I'm not entitled to know the substance, which is why 13:04:15
5 ask the question again. Did you have an 13:02:02	5 I didn't ask what the substance was. But I'm 13:04:17
6 understanding that Exhibit 8 was a confidential 13:02:03	6 certainly entitled to know when they occurred. 13:04:21
7 document? 13:02:06	7 That's not privileged. 13:04:23
8 MS. VAUGHN: Assumes facts not in 13:02:07	8 MS. PORTER: Well, the thing is we have to 13:04:24
9 evidence. 13:02:09	9 make certain threshold statements in order to assert 13:04:25
10 MS. PORTER: I am going to instruct her 13:02:10	10 a privilege. And then you can't say, well, the very 13:04:27
11 not to answer because the -- it implicates 13:02:11	11 fact that you -- that you made your threshold showing 13:04:30
12 attorney/client privilege. Even just the yes or no 13:02:14	12 relevant to a privilege issue now means I get to 13:04:35
13 part for the reasons I discussed earlier. 13:02:19	13 explore that. I don't -- I just don't see it. 13:04:38
14 Q. (BY MR. MORTENSEN) So your only 13:02:21	14 MR. MORTENSEN: Yeah, I'm not asking about 13:04:41
15 understanding as to whether this document is 13:02:22	15 the privileged communication. I'm asking about the 13:04:42
16 confidential or not is based on something that was 13:02:25	16 timing of the communication. There's nothing 13:04:45
17 told to you by Carolyn Olson; is that correct? 13:02:26	17 privileged about when you communicate with your 13:04:48
18 MS. PORTER: I think he's entitled to 13:02:32	18 client. There is privilege about what you 13:04:50
19 know. 13:02:34	19 communicate with your client. 13:04:52
20 THE WITNESS: Okay. My answer is no. 13:02:34	20 MS. PORTER: And I actually don't agree 13:04:53
21 Q. (BY MR. MORTENSEN) Okay. So there is 13:02:35	21 with that first legal statement because I've had it 13:04:54
22 another basis for your understanding as to whether 13:02:37	22 come up in a case before and -- 13:04:56
23 this is confidential. What is the other basis? 13:02:39	23 MR. MORTENSEN: All right. Well, then 13:04:59
24 A. Can I answer that? 13:02:42	24 let's just jump past that. I don't see any reason to 13:04:59
25 MS. PORTER: Yeah, I think you can. I 13:02:49	25 argue this anymore. I've asked when. Are you going 13:05:02
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1 think he's entitled to that, but I don't think you go 13:02:53	1 to instruct her not to answer? 13:05:04
2 any further. 13:02:55	2 MS. PORTER: Under these circumstances, 13:05:06
3 THE WITNESS: Okay. Through conversations 13:02:56	3 yes. 13:05:09
4 with Canadian lawyer, "s," plural. 13:02:57	4 Q. (BY MR. MORTENSEN) Okay. When did you 13:05:09
5 Q. (BY MR. MORTENSEN) Okay. Let me see if I 13:03:03	5 communicate with Dentons about whether the document 13:05:09
6 can parse this out. Your understanding as to the 13:03:05	6 was confidential? 13:05:14
7 confidentiality of this document is based on two 13:03:09	7 MS. PORTER: Same instruction. 13:05:16
8 things: Communications with Carol Carolyn Olson and 13:03:12	8 Q. (BY MR. MORTENSEN) Did you provide this 13:05:21
9 Canadian lawyers at Dentons? 13:03:16	9 document to anyone other than through e-mail to the 13:05:22
10 A. Yes. 13:03:19	10 Dentons law firm? 13:05:27
11 Q. Okay. When did you have the 13:03:21	11 A. I provided the box of documents to Salt 13:05:29
12 communications with Carolyn Olson about whether or 13:03:26	12 Lake Legal, and I provided this in discovery in the 13:05:34
13 not this document was confidential? 13:03:29	13 divorce case. 13:05:38
14 A. I don't remember that, but I just want to 13:03:31	14 Q. Did you mail a hard copy of this document 13:05:39
15 be careful as to -- 13:03:40	15 to anyone? 13:05:43
16 MS. PORTER: The question does incorporate 13:03:43	16 A. No. 13:05:44
17 the subject of the discussion. 13:03:44	17 Q. And I think you told me this already, but 13:05:44
18 MR. MORTENSEN: That's why I said whether 13:03:46	18 you're not aware of whether or not this decision was 13:05:56
19 or not as opposed to -- and I didn't make an opinion 13:03:48	19 reversed by CRA? 13:05:58
20 as to the actual answer. 13:03:50	20 A. No. 13:06:00
21 MS. PORTER: Yes. I did appreciate the 13:03:53	21 Q. As we've discussed I think a little bit 13:06:01
22 wording on that. But it's still a very narrow 13:03:56	22 today, you are aware that Carolyn Olson is being 13:06:23
23 subject. 13:04:00	23 represented by lawyers at Dentons in Canada and 13:06:26
24 MR. MORTENSEN: Well, Ms. Porter, she's 13:04:01	24 potentially other jurisdictions; is that true? 13:06:31
25 already told that her understanding of whether or not 13:04:04	25 A. Yes. 13:06:32
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